

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

PATRICK ORLANDO BALLARD,
654049

v.

NATHANIEL QUARTERMAN,
DIRECTOR OF TDCJ-CID

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CIVIL ACTION NO. G-06-177

ORDER

Before the Court is the Report and Recommendation of the United States Magistrate Judge that was entered on December 14, 2006. Petitioner, having been given a 30-day extension of time, has filed Objections in timely manner.


In his Objections, Petitioner alleges, in part, that Respondent did not serve him with Respondent' s Motion for Summary Judgment. He claims that he only learned that Respondent had filed this Motion when he received the Magistrate Judge' s Report and Recommendation. On January 2, 2007, Petitioner expressly acknowledged to the Court that he received the Report and Recommendation on December 21, 2006, but that he needed an extension of time, up to and including February 4, 2007, to file his Objections and expressly stated that he needed the extension because his access to the law library had been limited due to his prison work detail and the holidays. Petitioner did not claim, as he now attempts to aver, that Respondent did not serve him with Respondent' s Motion for Summary Judgment. Moreover, contradicting Petitioner' s claim that Respondent did not provide him service, is the Certificate of Service that Respondent' s counsel filed with the Motion certifying that she, in fact, served a copy of Respondent' s Motion

on Petitioner, using the correct TDCJ number and address, on August 15, 2006.

Having given this matter *de novo* review under 28 U.S.C. § 636(b)(1)(C), this Court finds that Petitioner' s Objections are without merit and that the Report and Recommendation is correct and it is, therefore, **ACCEPTED** by this Court in its entirety and incorporated by reference herein.

Accordingly, it is **ORDERED** that Respondent' s Motion for Summary Judgment (Instrument No. 13) is **GRANTED**; and the Petition for a Writ of Habeas Corpus of Patrick Orlando Ballard (Instrument No. 1) is **DISMISSED**.

DONE at Galveston, Texas this 2nd day of February, 2007.



Samuel B. Kent
United States District Judge